

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0328

SENATE BILL NO. 33

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to define the duty of insurers and rights of consumers with
2 regard to auto insurance damage claims.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this Act, paintless dent repair is any auto body repair that removes minor
7 dents and dings by using specifically designed tools to manipulate and flex the metal from the
8 backside of the dent without the necessity of sanding, priming, or painting.

9 Section 2. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any insurer providing commercial or personal motor vehicle insurance in this state
12 responsible for repairing a damaged vehicle for which it is liable shall provide sufficient
13 compensation to the insured or claimant to restore the vehicle to substantially the same condition
14 as prior to the damage, regardless of whether the insured or claimant actually chooses to repair
15 the vehicle. The insurer may adjust claims based in whole or in part upon the paintless dent repair
16 method if:

- 1 (1) The damage is such that the paintless dent repair method is likely to place the
2 damaged area or a portion thereof in substantially the same condition as prior to the
3 damage;
- 4 (2) A properly licensed paintless dent repair shop is willing to perform the work as
5 estimated within a reasonable time frame in the local market area of the insured or
6 claimant; and
- 7 (3) The written estimate provided to the insured or claimant prominently discloses the
8 following:
 - 9 (a) That the repair estimate is based in whole or in part upon the paintless dent
10 repair method. Each item of damage adjusted using that method shall be
11 identified;
 - 12 (b) That paintless dent repair may not be the appropriate repair method for all
13 types of damage;
 - 14 (c) That, if the insurer is liable for the damage listed on the estimate, the insurer
15 shall provide sufficient compensation to restore the vehicle to substantially the
16 same condition as conventional repair; and
 - 17 (d) That for any damage which paintless dent repair is appropriate, the insured or
18 claimant may choose not to repair the vehicle or to have the vehicle repaired
19 using a different method of repair. If the insured or claimant chooses either of
20 these options, the insurer is liable only for the cost of the paintless dent repair
21 method.

22 If, for any portion of the vehicle's damage that the insurer has a duty to repair, the paintless
23 dent repair method is inappropriate or actually produces an inadequate result, the insurer shall
24 compensate the insured or claimant for the amount necessary to complete the repairs in the local
25 market area of the insured or claimant. The insurer may not require the insured or claimant to

- 1 travel an unreasonable distance to obtain a repair estimate or to have the vehicle repaired. The
- 2 insurer may not name a repair shop as payee on a compensation check or draft unless requested
- 3 to do so by the insured or claimant.